



National Security Working Group

Special Policy Brief: Obama GITMO Base Closure

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Last month, Democrats heard the voices of the American people - and [ignored them](#), by signing into law the \$2.5 trillion government takeover of the health care industry. Now, President Obama and his administration appear to be [working behind close doors](#) again to [disregard public opinion](#) and focus their attention to closing the detention camp located in Guantanamo Bay, Cuba. As the poll shows, the strong majority of Americans support keeping GITMO open.

In the first hours of being sworn in, President Obama issued an executive order to close the detention facilities at Guantanamo Bay by January, 22, 2010, without a plan for the relocation of the remaining detainees currently housed at the base. Despite the fact that the administration failed to meet its first executive order because of public pressure and [congressional action to block](#) the closure of the facility, they continue to move forward with their mission to transfer or release the approximately 183 foreign men the military holds as war captives.

According to varying reports, the administration plans to move approximately 50 detainees to a federal prison in Thomson, Illinois, while transferring other detainees to the mainland for trials by military commission or in federal court. The rest await repatriation and resettlement. Detainees that remain in our custody include those believed to have plotted the attacks of 9/11, on the USS Cole, and on East African U.S. Embassies and Bali nightclubs. The RSC has identified the following issues surrounding the Obama administration's handling of the detainee issue and why closing the GITMO facility is problematic for many conservatives:

- ♦ ***Back on the Battlefield:*** [According](#) to the Pentagon, *roughly 20 percent of the 560 detainees who were released from Guantanamo are back on the front lines of terrorism.* By prematurely closing Guantanamo, upwards of 100 prisoners could be released because the remaining cases supposedly do not have enough evidence to charge them with a terrorist act, despite the fact that according to experts they are truly too dangerous to be released. In December, despite being held at GITMO for suspicion of kidnapping and murder, the government released Abdul Hafiz who is now working with Taliban leader Mullah Omar to oversee ransom demands for kidnapping victims in Afghanistan.

By closing Guantanamo and releasing prisoners that cannot be charged with an act of terrorism, some conservatives fear these individuals will return to the battlefield against U.S. troops or engage in terrorist activities like many of their predecessors.

- ◆ ***Another Costly & Duplicative Democrat Program:*** It was [reported](#) that the Department of Justice has been instructed to move forward with plans to buy the Thomson prison – even if Congress does not approve of its use to house detainees as a replacement for the military-run prison at Guantanamo Bay.

The Department of Justice has requested \$237 million in next year's budget to acquire and begin operating the facility in Thomson. This request does not take into full account the future costs to properly equip an institution to detain terrorists who are much more costly to detain than other federal criminals or the annual budget to staff and run it.

At a time when Congress is already running a deficit that is 11 percent above the highest deficit recorded in U.S. history (FY 2009), some conservatives question the need to spend as much as nearly \$5 million per detainee to transfer potentially as few as 50 prisoners when state-of-the-art detention facilities already exist at Guantanamo Bay. Additionally, while Democrats like to argue this is another “jobs program” for a small town, they refuse to acknowledge the economic benefits have been overstated because up to half of the jobs would be for temporary construction projects, and few locals would qualify to be guards.

- ◆ ***GITMO North:*** While some in the administration claim closing Guantanamo Bay will relieve the U.S. of an Al-Qaeda recruiting tool because of international claims of detainee abuse, moving the location of prisoners to the United States will do nothing to improve our international “image” with terrorists or Islamic extremists.

As former Pentagon Spokesman CMDR J.D. Gordon [states](#), “the local area would be converted into a highly symbolic and easily accessible target to home grown or overseas terror cells - the attacks of 9/11, on the USS Cole, and East African Embassies all pre-date Guantanamo. Al Qaeda’s top recruiting tools are the presence of U.S. troops in Muslim countries and the Israeli-Palestinian conflict.”

- ◆ ***Protecting vs. Prosecuting Accused Terrorists:*** Recently, Attorney General Eric Holder [announced](#) that at least nine newly appointed Department of Justice officials previously represented or advocated for terrorist detainees. Mr. Holder called these individuals “patriots” because they provided legal counsel for terrorists, a group so unpopular many attorneys would not.

Some conservatives believe the priorities of the Attorney General are backwards because federal law explicitly prohibits providing material support to terrorists and terrorist organizations. While conservatives agree everyone should have access to legal counsel in civilian or military court, these appointees took an oath to protect and defend the Constitution against all enemies, foreign and domestic. An argument could be made that this oath does not mean defending foreign combatants including Al-Qaeda, radical jihadists like Khalid Sheik Muhammad, who have all sworn to destroy America.

Many conservatives view this as a conflict of interest that some newly appointed U.S. Attorney’s now work for the very department in charge of prosecuting the same terrorists they defended. In addition, claims have been made that they defended the accused terrorists with questionable tactics. Just last week, the [Washington Times reported](#) that lawyers from the American Civil Liberties Union and the National Association of

Criminal Defense Lawyers had investigators follow and identify U.S. intelligence officers to show to top terrorists to determine whether they recognized which intelligence agents had questioned them.

Military vs. Civilian Trials: In March, the Obama administration announced it had still not made a decision on where or how to prosecute Khalid Shaikh Mohammed and four others accused of conspiring in the Sept. 11 attacks. While conservatives are pleased that the administration finally listened to popular opinion and backed down on their commitment to hold the trials in New York City, they have still not determined whether the trials will be conducted in a military tribunal or a civilian criminal court.

Most conservatives would argue that civilian trials are fundamentally not necessary because the United States is not carrying out a law enforcement operation in Afghanistan. Instead, our nation is involved in a military mission to capture extremists who have waged war on the American people – a situation where prosecution must be reserved for a military commission.

If the Administration chooses to prosecute terrorists under civilian law, they said the decision would allow the defendants to claim new legal protections, including Miranda and Fourth Amendment rights against unreasonable search and seizure. Some conservatives believe that Congress should require the government to put all “enemy belligerents” in military custody for interrogation, prohibit providing detainees with Miranda rights, and forbid the prosecution of noncitizen terror suspects in civilian courts.

Terrorists should not be provided with additional rights that enemies to the United States have never been granted before – George Washington used military courts during the Revolutionary War, and the practice remained consistent throughout World War II. Some conservatives may wonder why we should afford terrorists with greater rights than the Nazi’s received during the Nuremburg trials.

Finally, and you thought you hated jury duty before: Military commissions have the ability to provide protection for people involved in and trying the case. Under a civilian trial for acts of terrorism, jurors might be forced to go into hiding after the trial for fear of revenge for supporting a conviction. Very few citizens were eager to convict members of the mafia in the 50’s and 60’s; imagine how their lives may change when a juror potentially condemns Osama Bin Laden to death.

The whole issue of closing Guantanamo Bay is just another example of the Obama administration ignoring their responsibility to the American taxpayer, ignoring the goals of bipartisan public policy, undermining tactics that have proven to provide sound security, and playing favorites with their political base over the wishes of the majority of the American public. Conservatives in Congress should remain determined to enact legislation that will prohibit the Obama administration from implementing these ill-conceived presidential prerogatives.

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